

SENATE CHAMBER,
AUSTIN, TEXAS, Thursday, March 30, 1871. }

Senate met pursuant to adjournment; Senator Flanagan presiding *pro tem*.

Roll called; quorum present.

Absent—Senators Broughton, Cole, Evans.

Absent—excused—President Campbell.

Prayer by the Chaplain.

On motion of Senator Gaines, the reading of the journal of yesterday was dispensed with.

The following communication from President Don Campbell was read and ordered to be spread upon the journals :

Hon. Webster Flanagan, Senate Chamber :

DEAR SIR: My health is still too feeble for me to leave my room, and I will thank you to do the duties of the chair to-day.

Very truly,

DON CAMPBELL,

President of the Senate.

On motion of Senator Gaines, Senator Evans was excused from attendance for the day on account of sickness.

By permission of the Senate, Senator Gaines paired off with Senator Evans.

Senator Hall moved that the Senate do now proceed to elect a president for the time being. Carried.

Senator Hall put in nomination Senator Fountain.

President appointed as tellers Senators Ruby, Parsons and Gaines.

Senator Bowers moved that the election should be for the time during which President Campbell might be unable to preside. Carried.

Message from the House by the Chief Clerk, informing the Senate that the House had passed Senate bill No. 277, "An act for the relief of John G. Boyle."

Also, transmitting for the concurrence of the Senate the following House bills :

House bill No. 215, "An act to provide for the payment of the public debt of the State of Texas."

House bill No. 262, "An act to incorporate the San Antonio River Valley Irrigation Company."

House bill No. 265, "An act to amend 'an act defining lawful enclosures, and for other purposes,' passed February 5, 1840."

House bill No. 297, "An act to enable the settler to hold a homestead in different tracts."

House bill No. 330, "An act to incorporate the Austin Gaslight and Coke Company."

House bill No. 432, "An act to amend sections one and four of 'an act to define, establish and mark the boundaries of the counties of Cameron, Hidalgo, Starr, Zapata, Webb, Encinal, Duval and Nueces,' passed July 26, 1870."

The Senate then proceeded to the election of President, for the time being, by ballot, with the following result:

Senator Fountain received.....	17 votes.
" Flanagan "	6 "
" Pickett "	1 vote.
Blank	1 "

Senator Fountain having received a majority of all the votes cast, was declared duly elected President, *pro tem.*; whereupon Senator Fountain was called to the chair.

Senator Parsons moved that a special committee of three be appointed to notify the Governor and Lieutenant-Governor Don Campbell that a President, for the time being, had been elected by the Senate. Carried.

Senators Parsons, Flanagan and Ruby were appointed on said committee.

PETITIONS AND MEMORIALS.

By Senator Bowers: "Petition of Lorenzo Castro and A. C. Fairman." Read and referred to Judiciary Committee.

Report of Committee on Engrossed Bills:

COMMITTEE ROOM,
AUSTIN, March 29, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills having examined and compared substitute Senate bill No. 166, "An act to organize and maintain a system of public free schools in the State of Texas," find the same to be correctly engrossed.

G. T. RUBY,

Report read and received.

The Secretary carried substitute Senate bill No. 166 to the House for concurrence.

Message from the House by Chief Clerk, transmitting to the Senate for the signature of the President the following enrolled bills:

House bill No. 418, "An act to amend an act entitled 'an act to create the county of Delta,' passed July 29, 1870."

Also, House joint resolution No. 25, "Joint resolution requiring the Comptroller of Public Accounts to re-transfer to the State revenue account the sum of thirty-five thousand nine hundred and fifty dollars and five cents, heretofore erroneously transferred from said revenue account to the available school fund account."

Enrolled bills signed by the President and returned to the House.
Report of Committee on Contingent Expenses :

COMMITTEE ROOM,
AUSTIN, March 29, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Contingent Expenses, to whom was referred the account of Lieutenant Sheriff of the State Police force, for thirty-two dollars, claimed for attendance before the Committee on Privileges and Elections, in the Cherokee election case, beg leave to submit the following report and recommend its adoption :

It appears that Lieutenant Sheriff is a State officer, serving with rank of lieutenant in the State Police; that he is paid as such. Your committee believe that, his entire time being paid for by the State under his above named employment, he should not receive extra pay out of the contingent fund of the Senate, otherwise he will receive double pay for the time occupied in service to the State. Your committee further believe, that if he be entitled to mileage at all, he should be paid out of the police fund. The information he acquired and gave to the Committee on Privileges and Elections was obtained while on duty as lieutenant of police and it was a part of his duty as such to use the information before the said committee.

J. S. MILLS, Chairman,
MATTHEW GAINES,
R. HILLEBRAND,
D. W. COLE,
J. E. DILLARD.

The same bill presented to me for payment.

H. C. YOUNGKIN,
Chairman, Committee for the House.

On motion of Senator Gaines, the rules were suspended to consider the report.

On motion of Senator Gaines, the report was adopted.

Report of Committee on Private Land Claims :

COMMITTEE ROOM,
AUSTIN, March 30, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Private Land Claims, to whom was referred

House bill No. 56, "An act for the relief of Henry Kountz," have carefully considered the same and instruct me to report the bill back and recommend its passage.

G. T. RUBY,
Chairman.

Report read and laid over under the rules.
Reports of Committee on State Affairs :

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred Senate bill No. 278, entitled "An act to incorporate the Waco Female College," ask leave to report the same back and recommend its passage, with the accompanying amendments.

S. W. FORD,
Chairman.

Amendments of Senate Committee on State Affairs to Senate bill No. 278 : amend section one. line six, by inserting after the word "College," the words "for and in behalf of the Northwest Texas Annual Conference;" amend section eight, line six, by inserting after the word "therewith," the words "not exceeding five acres."

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,
President of the Senate :

SIR: Your committee to whom was referred the petition of Jos. H. Dunham and others, of Grimes county, for relief on the official bonds of William L. Chatham, after full investigation of the facts, would respectfully suggest that this is a case of merit, and should receive at least partial relief. They, therefore, report the following bill, and recommend its passage.

S. W. FORD, Chairman.
J. P. DOUGLASS,
G. R. SHANNON,
J. G. BELL,
E. PETTIT.

Senate bill No. 295, a bill to be entitled "An act for the relief of the sureties of William L. Chatham, late Assessor and Collector of State taxes."

Report and bill read first time and laid over under the rules.

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 63, entitled "An act to incorporate the Mutual Aid Society of the City of Houston," ask leave to report the same back and recommend its passage, with the accompanying amendment.

S. W. FORD,
Chairman.

Amendment of Senate Committee on State Affairs to House bill No. 63: Amend section four, line five, by striking out all of said section after the word "paraphernalia."

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 89, entitled "An act to incorporate the Galveston Seamen's Home," instruct me to report the same back, with the accompanying amendment, and recommend its passage.

Respectfully,

S. W. FORD,
Chairman.

Senate Committee on State Affairs' amendment to House bill No. 89: amend section four, lines thirteen and fourteen, by striking out all after the word "by-laws."

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 108, entitled "An act to incorporate the land Owners' Association of Texas," and House bill No. 113, entitled "An act to incorporate the officers and members of Weatherford Lodge No. 77, I. O. O. F.," instruct me to report the same back and recommend their passage.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred

House bill No. 110, to incorporate the "Texas Lumber and Manufacturing Company," and House bill No. 231, to incorporate the "Washington County Fair Association," ask leave to report the same back and recommend their passage.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 90, to be entitled "An act to incorporate the Lake City Cotton and Wool Manufacturing Company," ask leave to report the same back and recommend its passage.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon DON CAMPBELL,
President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 109, to incorporate the "Houston Real Estate and Banking Company," and House bill No. 214, to incorporate the "Washington County Banking and Insurance Company," ask leave to report the same back and recommend their passage.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 79, entitled "An act to provide for transcribing the land records of San Saba county," instruct me to report the same back and recommend its passage.

S. W. FORD, Chairman.

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,
President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred

House bills No. 283, to incorporate "Waco Lodge No. 92, Ancient, Free and Accepted Masons;" 358, to "authorize the board of aldermen of the city of Waco to lease a part of the ground on the public square of said city for certain purposes," and 379, to incorporate the "Waco Insurance Company," instruct me to report the same back and recommend their passage.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred House bill No. 19, entitled "An act to incorporate the Indianola Dredging Company, as herein specified," and House bill No. 71, entitled "An act to incorporate the Jefferson Steam Fire Company No. 1, of the city of Jefferson," ask leave to report the same back and recommend their passage.

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, March 28, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on State Affairs to whom was referred Senate bill No. 204, entitled "An act to incorporate the Central Insurance Company of Texas," ask leave to report the same back and recommend its reference to the Committee on Judiciary.

S. W. FORD,
Chairman.

Reports read and laid over under the rules.

On motion of Senator Ford the rules were suspended to consider Senate bill No. 204.

Report adopted and on further motion Senate bill No 204, was referred to the Judiciary Committee.

Report of Committee on Privileges and Elections :

Majority report of Committee on Privileges and Elections :

COMMITTEE ROOM,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Privileges and Elections, to whom was

referred a resolution of the Senate, requiring this committee to inquire into and investigate the legal right of Hon. James E. Dillard to hold a seat in and upon this floor as a senator from the Third Senatorial District, have faithfully, earnestly and honestly considered the same, and have instructed me to submit the following majority report:

By proclamation of his Excellency, the Governor, dated —— day of ——, 1870, an election was held for two representatives and one senator, in the Third Senatorial District, composed of the counties of Houston and Cherokee, on the twenty-eighth, twenty-ninth and thirtieth days of November, and the first day of December following. At said election Hon. James E. Dillard was the Democratic, and George W. Lane the Republican candidate.

James E. Dillard received..... 1,501 votes.

George W. Lane received..... 1,060 votes.

The first named, having received the largest number of votes cast, was admitted to a seat at the assembling of the present session, with the information of the Secretary of State that he had received unofficial information that the election was not justly and fairly conducted. A vast amount of evidence has been adduced on both sides, and ample justice has been awarded to the sitting member. He, however, at first asked for a subpoena for twenty-nine witnesses, but finally agreed with the chairman to send interrogatories, which was done. After the witnesses had been examined and the interrogatories had been received, he asked to send for additional witnesses, which the committee decided not to grant. He had, however, several witnesses present, and your committee knew of several witnesses for the State, which it was impracticable to send for. The evidence introduced by the sitting member is almost wholly either negative or general, while the State's witnesses testify positively and specifically.

The main points are herein set forth which have been elicited, and is regarded by your committee as containing every form of intimidation and violence, except an open and direct collision, even admitting that the taking of the flag and drum was not a collision. Your committee, however, are satisfied, from the evidence, that had Republicans resisted the taking away of their flag, and had resented repeated insults offered them, serious collisions would have ensued.

Republicans therefore claim that the election should be declared a nullity on account of violence, intimidation and fraud, and base said claim upon the evidence herewith submitted, from which the following summary of facts is extracted:

The testimony of A. T. Monroe, and others, establishes the fact that after the United States flag had been raised at the polls by Republicans, the opposition put up a certain nondescript flag, and that although it was not clearly identified as the Confederate flag, yet it was evidently a hostile flag, and was raised in opposition and derision to the United States flag. It is admitted to have been a tournament flag, and modern tournaments are of Confederate offspring. Also that many of the opposition had, on the first day of the election, large green clubs, and that they followed up Mr. Monroe, insulting him, and cursing and abusing Republicans generally, and the "damned Radicals" in particular. That colored voters were threatened with the Penitentiary if they voted the Republican ticket; others were threatened to be turned out of employment. Those who were threatened with the Penitentiary were claimed by them to be minors, though they were registered voters. General Monroe, to save trouble, advised them not to vote. This threat was all potent, since, from the testimony of W. V. Tunstall, and others, it appears that colored men cannot get justice before the courts of Cherokee county; and from the further fact, as the testimony shows, some freedmen were fined by his honor Justice Hogg for huzzaing for the Republican candidate, Mr. Lane, during registration, under the pretext that it was disturbing the peace. It is further shown that colored men were thus kept from coming forward to register.

It is shown by the testimony of Dr. Shelton that colored men are afraid to attend the meetings of the Union League; that white men's property has been destroyed in that county because they were Republicans; and several witnesses testify to the fact that the colored people of Cherokee county do not enjoy the rights of a free people.

The testimony of J. L. Long shows that, on the first day of the election, there were several hundred colored men at the polls, many of whom did not vote, and that at one time there came in some seventy in one company, having a United States flag, and a drum; that the white men rushed upon them, saying: "White men to the rescue; down with the Radical party;" and cursing the "damned niggers;" that these white men were Democrats; that they took the flag and drum away from the colored men, and that they used the drum to celebrate their victory after the election.

The flag was brought to this city by Lieut. Sheriff, and bears evident marks of violence and insult.

The testimony of Joe. L. Long and other witnesses show that there were but few colored men at the election after the first day, which was evidently the result of the terror created among them on that day.

Mr. Trimble states in his testimony, that on his way to the elec-

tion, on the morning of the first day, he found a colored man lying on the side of the road with a serious bruise on his forehead, and that the colored man told him that a white man had struck him there that morning, with a big stick, because he was going to vote for Col. Lane. The colored man further told witness that, having some corn and some provisions for himself and horse, the white man took it away from him. Mr. Trimble further states, that a Democrat told him that if he (Trimble) voted for Col. Lane and the other Republicans, that he would be indicted for stealing hogs. He so voted, and the grand jury which was then in session did find a bill against him. Your committee, however, are satisfied that it is a malicious prosecution. The testimony of this witness, and also of Mr. Monroe, shows further that many white Republicans told them that they could not vote the Republican ticket, and afterwards endure the proscription, insult and loss of property to which it would subject them.

The testimony of Dr. Shelton and other witnesses establishes the fact that the *Rusk Observer*, of which paper Mr. Dillard is one of the editors, is slanderous, denunciatory and threatening in its articles, and has an intimidating effect upon Republicans, white and colored.

R. M. Saunders testifies that several freedmen told him that they went home without voting, because they were afraid to vote, and that he heard many expressions at the election calculated to intimidate loyal voters.

L. D. Saunders testifies to much abuse and insult to Republican voters.

The effort was made openly by the sitting member, Mr. Dillard, to invalidate the testimony of Col. L. D. Saunders, and to cast suspicion on the evidence of the other State's witnesses, but without effect. The attempt was made to convict R. M. Saunders of murder, by his own testimony; the sequel, however, showed that he had been attacked by three infuriated Irishmen, one of whom he shot and killed.

The witnesses on the part of the defense saw nothing and knew nothing, and their principal witnesses were not there on the first day of the election, the day on which the mischief was done, that gave the election, the victory and the mastery of the situation to the opposition candidate and his friends.

The officers of the election testify to the fairness of the election, so far as their action and management of the same is concerned, but have no knowledge of what transpired outside, except in one or two instances. Mr. Long, one of the clerks, saw the flag and drum taken away from the freedmen.

This complaint of unfairness and intimidation is the second which

has been made to this body from Cherokee county, and, from the evidence, the evil grows worse and worse, and if this lawlessness is not rebuked and checked, any other attempt to hold an election in that county will be but a solemn mockery and a farce.

Your committee would ask that the testimony be printed, together with certain affidavits accompanying the testimony, taken by Lieutenant Sheriff, which, although not technically admitted as evidence, your committee are fully satisfied of the genuineness and truth of said affidavits.

With all the lights before us we are firmly of the conviction that the late election in the Third Senatorial District, so far as Cherokee county is concerned, is without a parallel since the days of 1861, and that the sitting member from that district is not legally entitled to a seat on this floor. Your committee would therefore recommend the adoption of the following resolutions:

Resolved, That James E. Dillard is not legally entitled to a seat as Senator on this floor.

Resolved, That the seat now occupied by James E. Dillard be declared vacant.

THOS. H. BAKER,
Chairman.

The President announced the following communication from Senator Dillard:

SENATE CHAMBER,
AUSTIN, March 30, 1871.

A. J. FOUNTAIN,

President of the Senate:

SIR: I wish, with your permission, to withdraw from archives of the Senate my certificate of election, under the hand and seal of Thomas E. Hogg, J. P., to be used as evidence in the Cherokee election case.

Yours, etc.,

J. E. DILLARD.

There being no objection, leave was granted to Senator Dillard to withdraw from the archives of the Senate his certificate of election.

Senator Broughton presented the following minority report from the Committee on Privileges and Elections:

Minority report of the Committee on Privileges and Elections:

COMMITTEE ROOM,
AUSTIN, March 29, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: The undersigned minority of your Committee on Privil-

eges and Elections, to whom was referred the case of James E. Dillard, sitting member from the Third Senatorial District, dissent from the majority report in this case and respectfully submit for the consideration of the Senate their minority report. They concur with the majority of the committee that a vast amount of evidence, if evidence it may be called without an abuse of language, has been adduced; but they say that said evidence in no wise tends to establish the conclusion at which the majority of the committee have arrived. They say that the said evidence is of that character that is discarded from consideration by all judicial tribunals throughout the civilized world, being composed in the main of heresay statements and common rumor. The fact that either fraud or intimidation was used in the late election in Cherokee county is not directly sworn to by any of the vast number of witnesses that have been examined. If the question were asked what citizen of Cherokee county was intimidated or prevented from casting his ballot untrammelled, the voluminous evidence would not furnish the answer. The majority of the committee rely upon the assumption that the freedmen were intimidated anterior to the election to support the conclusion that they were intimidated during the election; but upon this point the minority submit a fact sworn to by all the witnesses, which completely rebuts such an assumption. It is of the highest order of evidence and cannot be successfully contradicted.

It is evidence furnished by human nature itself. Men's actions always correspond with their emotions and passions; and the fact that the freedmen on the first day of the election organized themselves in a large body at Jacksonville, twelve or fourteen miles from the polls, and marched along the public highway to Rusk, where the election was held, and entered the town with banners flying and drums beating, shouting and huzzaing for their candidates, shows most conclusively, to the mind of the minority, that they were not moved by fear or intimidation. It seems to the minority it was intended somebody else was to be intimidated. Men moved by fear and intimidation seek hiding places, and absent themselves from points of danger, while those who seek to intimidate are accustomed to making formidable displays of numbers and strength. The minority dissent from the opinion of the majority that every form of intimidation was resorted to in the election, to the contrary, they are of opinion that the evidence taken as a whole shows a condition of affairs and a course of conduct upon the part of the people at the election alike honorable to Cherokee county and the Senator from that district. The minority are of the opinion that any circumstances testified to by the witnesses for the contestants are valueless to show fraud and intimidation, until it is first shown that the

vote cast is disproportioned to the actual strength of the political parties contesting the election. So far from this being shown, the testimony of the contestant's own witnesses establishes the fact, that the party to which the sitting member belongs is largely in the majority and that his majority is not disproportioned to the relative strength of the parties. The official returns of the election from that county in 1869, at the general election, show that James E. Dillard, the present Senator, received 774 votes, and M. Priest, who ran as a moderate Republican, received only 414. At the last election Dillard received 889 votes and S. W. Lane, his opponent, 384, which shows only an increase of 115 Democratic votes, although the strength of that party had been increased nearly 300 votes under the election law of last session, and it is admitted by all that Priest was a man of greater personal popularity than Lane. This shows conclusively that fraud and intimidation could not have been practiced to any considerable extent. Besides, by adding the majority that Dillard received over Lane, to the vote that he (Lane) received would show a strength for the Republican party that is not claimed.

The minority deem it unnecessary to enter lengthily into the discussion of the evidence, as they desire it shall be read and taken as part of their report. The Senate will see that it is composed mostly of inferences and opinions, and not of facts bearing upon the issues presented for the consideration of the committee. They hope and believe the Senate will give that careful consideration which the magnitude of the subject demands, and that the representative of one of the thirty Senatorial districts will not be deprived of his seat upon a species of evidence that would not be entertained in any judicial tribunal in the determination of the most trivial cause.

The minority beg leave to submit the following resolution and recommend its adoption:

Resolved, That James E. Dillard was legally and constitutionally elected as Senator of the Third Senatorial District, and is entitled to his seat upon this floor.

E. T. BROUGHTON,
D. W. COLE,

Minority.

Senator Flanagan moved that two hundred copies of the majority and minority reports be printed for the use of the Senate. Carried.

Report of Committee on Engrossed Bills:

SENATE CHAMBER,
AUSTIN, March 25, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills, having examined and

compared Senate bills No. 54, "An act to repeal the third section and to amend the second section of 'an act to regulate the sale of lands under the decrees of courts,' approved August 13, 1870;" No. 57, "An act to prescribe the manner in which cases shall be tried in the Supreme Court of the State of Texas, when one or more of the judges may be qualified by having presided at the trial of such such case in the District or lower court, or from any other cause;" No. 121, "An act providing that all fees or costs of peace officers shall be taxed, and payable in U. S. Currency;" 150, "An act to authorize certain persons therein named to operate a ferry on Sabine river, in Upsher county;" No. 216, "An act to incorporate the town of Socorro, in El Paso county;" No. 226, "An act to incorporate the Hebrew Benevolent Association of Marshall, Texas;" No. 230, "An act to incorporate the officers and members of the Grapevine Lodge No. 288, Free and Accepted Masons;" No. 250, "An act to authorize Henry W. Jones, his associates and successors, to construct, own and keep a toll bridge on Sulphur Fork, Red River;" and No. 266, "An act to incorporate the Waco City Cemetery Association," find the same to be correctly engrossed.

G. T. RUBY,
E. L. DOHONEY,
P. W. HALL,

Report read and received.

The Secretary carried to the House for concurrence Senate bill Nos. 54, 57, 121, 150, 216, 226, 230, 250, 266.

Report of Committee on Roads, Bridges and Ferries:

COMMITTEE ROOM,
AUSTIN, March 29, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Roads, Bridges and Ferries, to whom was referred House bill No. 427, entitled "An act to authorize C. Duncan and G. W. Patten to erect a toll bridge over Aquilla creek, in the county of McLennan, Texas, have had the same under consideration, and beg to report the same back to your honorable body with the recommendation that it do pass.

J. G. BELL, Chairman.

Report read and laid over under the rules.

BILLS AND RESOLUTIONS.

By Senator Pickett: a bill (Senate bill No. 296) to be entitled "An act to incorporate the law department of the Texas University." Read first time and referred to the Judiciary Committee.

By Senator Bell: a bill (Senate bill No. 297) to be entitled "An act to amend sections two and twelve of an act entitled 'an act to incorporate the Hempstead, Eastern and Western Trunk Railway Company of Texas.'" Read first time and referred to the Committee on Internal Improvements.

By Senator Pettit: a bill (Senate bill No. 298) to be entitled "An act to provide for the appointment of a phonographic reporter to the Supreme Court of the State of Texas, and for other purposes." Read first time and referred to the Judiciary Committee.

The following resolution was introduced by Senator Pettit and adopted:

Resolved, That the use of the Senate Chamber be tendered Prof. C. G. Forshey, on this Thursday evening, for the lecture he has been invited to deliver by the members of this Legislature upon the improvement of the "water channels" within the limits of the State of Texas.

By Senator Gaines: a bill (Senate bill No. 299) to be entitled "An act to incorporate the Navasota Ferry Company." Read first time and referred to the Committee on Roads, Bridges and Ferries.

On motion of Senator Flanagan, leave of absence was granted to Senator Baker for five days, commencing on Saturday next.

By Senator Bowers: a bill (Senate bill No. 300) to be entitled "An act to amend the first and third sections, and to repeal the eighteenth section of 'an act to provide for the protection of the frontier,' approved June 13, 1870." Read first time and referred to the Committee on Indian Affairs and Frontier Protection.

By Senator Mills: a bill (Senate bill No. 301) to be entitled "An act to incorporate the city of Navasota, Texas." Read first time and referred to Committee on State Affairs.

By Senator Douglass: a bill (Senate bill No. 302) to be entitled "An act to incorporate the Upper Sabine Navigation Company." Read first time and referred to Committee on Internal Improvements.

GENERAL FILE.

Senate bill No. 55, "An act to incorporate the East Texas Cotton, Woolen and Cotton Seed Oil Manufacturing Company."

On motion of Senator Flanagan, the following House amendments were concurred in: Add at the end of section seven, "further than to the amount of stock owned by him or her."

Senator Gaines moved that the rules be suspended to take from file House bill No. 37, "An act to amend an act entitled 'an act to establish a State Police and provide for the regulation of the same,'

approved July 1, 1870." Yeas and nays called for and motion to suspend the rules lost by the following vote:

Yeas—Baker, Bell, Ford, Fountain, Hall, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Ruby, Saylor, Tendick—13.

Nays—Bowers, Broughton, Cole, Dillard, Doboney, Douglass, Flanagan, Latimer, Pickett, Pyle, Shannon—11.

Senator Gaines was excused from voting, having paired off with Senator Evans.

GENERAL FILE—Resumed.

Senate bill No. 165, "An act to incorporate the Tyler Real Estate and Banking Association."

On motion of Senator Douglass, the following House amendment was concurred in: Amend section one by striking out the name of "H. C. Hunt."

Senate bill No. 29, "An act to incorporate the Texas Cotton Spinning and Manufacturing Company."

The following House amendment was concurred in: Amend by striking out section six.

The Senate refused to concur in the following House amendment:

Amend section two by adding the following: "The property, real and personal, of said company shall be exempt from State and county taxes for the space of five years."

Under direction of the President the Secretary carried to the House for signature the following enrolled Senate bill: Senate bill No. 277, "An act for the relief of John G. Boyle."

Signed by the Speaker, returned to the Senate, and signed by the President.

GENERAL FILE—Resumed.

House bill No. 73, "An act to authorize John Terrill and J. J. T. Wright to keep a ferry on Big Cypress Bayou."

On motion of Senator Bowers, the Senate refused to recede from the following Senate amendment: "Amend the caption and section one by striking out the words "and J. J. T. Wright."

On motion of Senator Baker, a committee of conference was appointed on House bill No. 73.

President appointed on such committee Senators Bowers, Saylor and Pettit.

Senate joint resolution No. 5, "Proposing amendments to section two, section three and section four, of article five, of the Constitution of the State of Texas."

On motion of Senator Douglass, the Secretary was instructed to

return Senate joint resolution No. 5 to the House for concurrence, the same having been read in the Senate on three several days, as provided by the Constitution.

Senate bill No. 4, "An act to incorporate the Island City Gas Company." Read third time.

Senator Flanagan moved that Senate bill No. 4 be indefinitely postponed. Lost.

Senator Gaines moved that Senate bill No. 4 be made the special order for Monday next, at 12 o'clock M. Lost.

Senator Ruby moved to make Senate bill No. 4 the special order for Saturday next, at 12 o'clock M.

Motion carried, and Senate bill No. 4 made the special order for Saturday, at 12 o'clock M.

Senator Pickett offered the following resolution :

Resolved, That a call of the Senate shall not be suspended so long as the number of Senators required to demand the call vote against the suspension.

Senator Pickett moved that the rules be suspended to consider the resolution.

Yeas and nays called for, and motion to suspend the rules lost by the following vote :

Yeas—Baker, Bowers, Cole, Dillard, Dohoney, Douglass, Flanagan, Latimer, Pickett, Shannon—10.

Nays—Bell, Ford, Fountain, Hall, Hertzberg, Hillebrand, Parsons, Pettit, Pyle, Rawson, Ruby, Saylor, Tendick—13.

Under direction of the President the Secretary carried to the House for concurrence Senate bill No. 79, to be entitled "An act to amend an act entitled 'an act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico.' "

Also, informing the House that the Senate had passed House concurrent resolution: Concurrent resolution No. 1, "Authorizing the Speaker to appoint a committee of five, to act with a like committee from the Senate, that body concurring, whose duty it shall be to report at an early day a general incorporation law."

House bill No. 397, "An act for the permanent location of the county site of Hamilton county."

House bill No. 115, "An act to regulate the keeping and bearing deadly weapons," with amendments.

12 o'CLOCK M.

The hour having arrived for the consideration of special order, Senate bill No. 94, "An act to give effect to the several provisions of the Constitution concerning taxes."

On motion, the following House amendments to Senate bill No. 94 were concurred in by the Senate :

Section six, line nineteen, after word "profit" strike out the word "one" and insert "two;" section six, line twenty-two, strike out the word "fifty" and insert "one hundred;" also, line twenty-two, after the word "site" insert words "used for profit;" section six, line twenty-nine, after the word "he" strike out the words "or they;" section six, line thirty-two, after word "fruits" insert word "or;" section six, line thirty-six, strike out the word "transient;" section six, line forty-one, strike out after word "given" the words "by amateur performers or;" section six, line seventy-two, strike out word "fifty" and insert "one hundred;" section six, line seventy-three, strike out words "twenty-five" and insert word "fifty;" section six, line one hundred, after word "provided" insert words "that the county tax for selling goods by sample, card or otherwise, shall be collected in only one county."

Senator Ruby moved that the Senate concur in the following House amendment:

Section six, line one hundred and fourteen, after word "of" strike out word "one" and insert "five."

Yeas and nays called for and motion carried by the following vote:

Yeas—Baker, Bowers, Cole, Dillard, Dchoney, Flanagan, Ford, Fountain, Hillebrand, Latimer, Mills, Parsons, Pridgen, Ruby, Saylor, Tendick—16.

Nays—Bell, Broughton, Douglass, Gaines, Hertzberg, Pettit, Pickett, Rawson, Shannon—9.

On further motion the following House amendments were concurred in:

Section six, line one hundred and fifteen, after the word "dollars" insert the following, "from State an annual tax of two hundred and fifty dollars;" in line one hundred and fifteen, strike out all after the word "dollars," down to and including word "company" in line one hundred and seventeen;" in line one hundred and twenty-one, strike out word "each" and insert the following, "the principal or general "State;" line one hundred and thirty-four, after word "dollars," insert the following, "from every person or firm keeping a barber shop five dollars for each and every chair therein at which a barber works;" line one hundred and fifty-three, after the word "certificates" insert the following, "locating lands for others, paying taxes for others."

Section ten, line five, strike out word "net" and insert word "gross."

Section seven, line twelve, after word "counties" insert words "or territories not laid out into counties."

Section ten, line seventeen, after word "counties" insert words "or

territories;' line twenty-two, after word "counties" insert words "or territories."

Section thirteen, add to section the following: "*provided*, that for the year 1871 the time for assessment is extended to the first of July."

Section fourteen, line seven, after word "thereof" insert words "number of acres."

Section eighteen, line fourteen, after word "schools" add the following: "or to public roads, as the case may be."

Senator Flanagan moved that the Senate concur in the following House amendment: Section six, line one hundred and thirteen, after word "every" insert word "life."

Yeas and nays called for and motion lost by the following vote:

Yeas—Bowers, Cole, Dillard, Dohoney, Flanagan, Ford, Fountain, Gaines, Parsons, Pettit, Ruby, Tendick—12.

Nays—Baker, Bell, Broughton, Douglass, Hertzberg, Hillebrand, Latimer, Mills, Pickett, Pridgen, Rawson, Saylor, Shannon—13.

On further motion, the Senate refused to concur in the following House amendments to Senate bill No. 94:

Section five, line two, strike out the word "fourth" and insert "eighth."

Amend section six, line seven, by inserting after the word "follows" the following: "for selling spirituous, vinous, malt and other intoxicating liquors, in quantities of one quart or more, and for selling beer in quantities of one pint or more (except retailers who have previously obtained license therefor) one hundred dollars;" line ten by striking out all after the word "dollars" down to and including the word "State in line thirteen;" lines thirty-three and thirty-four strike out the words "or goods, or wares exclusively manufactured in this State;" line one hundred, strike out from word "that," down to and including word "considered;" line one hundred and forty-eight, after word "person" insert words "or members of a."

Add to section ten the following: "and where, from any cause, in any organized county, there is no quorum of justices of the peace, then the Comptroller shall designate what officer or officers shall make the assessment in the precincts where vacancies exist."

Senator Parsons moved that the further consideration of Senate bill No. 94 be postponed and the bill made the special order for tomorrow at 10:30 o'clock A. M. Motion carried.

Senator Douglass offered the following resolution which was adopted:

Resolved, That the Secretary of the Senate be authorized to

issue his certificate for the per diem pay of the late Senator Amos Clark, and that Senator Webster Flanagan be authorized to collect the same, and account for the proceeds to the representatives of the deceased.

On motion of Senator Douglass, the Senate adjourned to to-morrow at 10 o'clock A. M.
